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ABSTRACT

This report of the Committee on Labor and Human Resources favorably recommends that Senate Bill 1106, Amendments to the Individuals with Disabilities Education Act, be passed by the Senate. Noted are the legislation's purposes: to help States facing fiscal crises stay in the Infants and Toddlers with Disabilities program (Part H); to reward those States making progress toward full implementation; to provide more effective mechanisms to assure a smooth transition from Part H early intervention services to the part B preschool program; to update the language of the legislation and provide for more effective parental participation and the needs of underserved populations; as well as to reauthorize the program for 3 more years. Presented is information on the background and need for the legislation (including the legislative history, hearings and testimony, the program's importance, and important issues such as funding, delivery systems, and eligibility). Presented next are an explanation of the bill and Committee views. Discussed here are: the comprehensive delivery system for young children and their families; the early education demonstration program; parent training centers; definitions; differential funding; statewide systems; the individualized family service plan; procedural safeguards; and interagency coordinating councils. Cost estimates are provided next followed by a section by section analysis. The final section covers changes in existing law. (DB)

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102D CONGRESS
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SENATE

REPORT
102-84

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS

JUNE 18 (legislative day, JUNE 11), 1991.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1106]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1106) to reauthorize part H of the Individuals with Disabilities Education Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. INTRODUCTION

On May 22, 1991, the Committee on Labor and Human Resources, by a unanimous voice vote, ordered favorably reported S. 1106, the Individuals with Disabilities Education Act Amendments of 1991.

The bill is sponsored by Senator Tom Harkin, chairman of the Subcommittee on Disability Policy (formerly the Subcommittee on the Handicapped), and cosponsored by Senators Durenberger, Kennedy, Hatch, Simon, Dole, Wellstone, Dodd, Bingaman, Adams, Jeffords, Cochran, and Kassebaum.

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As approved by the Committee on Labor and Human Resources, S. 1106 reauthorizes part H, the Infants and Toddlers with Disabilities program of the Individuals with Disabilities Education Act and makes other amendments to the Act. The purposes of this legislation are: to help States facing fiscal crises to stay in the program and to provide rewards to those States making progress toward full implementation; to provide for more effective mechanisms to assure a smooth transition from part H early intervention services to the part B preschool program; to fine-tune the legislation by updating the language, by providing for more effective parental participation in decision-making, and by addressing needs of underserved populations, among other minor changes; and to reauthorize the program for 3 years.

II. Background and Need for the Legislation

Legislative History

The Individuals with Disabilities Education Act (hereinafter referred to as IDEA or "the Act") is the new name established by P.L. 101-476 for legislation previously referred to as the Education of the Handicapped Act. IDEA includes parts A through H. Part A includes general provisions and definitions. Part B of the Act, the State formula-grant program, was established by P.L. 94-142, The Education for All Handicapped Children Act of 1975. This Act strengthened and coordinated pre-existing Federal programs and requirements for children and youth with disabilities. Part B of the Act mandates a free appropriate public education for all children with disabilities and ensures procedural protections.

The Act also includes various discretionary grant programs, which are now represented in Parts C through G of the Act. Many of these programs were enacted prior to the State grant program, and in response to different and specific concerns. These programs support research and demonstrations, dissemination of information, technical assistance, and training. The common theme of these programs is the improvement of early intervention services to infants and toddlers with disabilities and special education and related services to children and youth with disabilities.

The discretionary programs under parts C through G have been recently authorized through fiscal year 1994, by P.L. 101-476, the Education of the Handicapped Act Amendments of 1990.

In addition to amending the State incentive grant program under Section 619 of Part B to strengthen incentives for States to serve all children with disabilities from 3 through 5 years of age, P.L. 99-457 added a new part H, the Infants and Toddlers with Disabilities program. Part H is intended to assist the States to develop and implement statewide, comprehensive, coordinated, multidisciplinary, interagency programs of early intervention services for infants and toddlers with disabilities and their families. The statewide systems required under this section include a minimum of 14 specific components. The law specifies that services be provided under an Individualized Family Service Plan and mandates the creation of State Interagency Coordinating Councils.

Part H includes strict timelines for the development and implementation of services to infants and toddlers with disabilities.

States are given three years to plan and adopt policies establishing this system. In the fourth year, States are required to have the system in place and provide some but not all early intervention services. In the fifth year, States are expected to provide all early intervention services to all eligible infants and toddlers and their families. Part H is authorized through FY1991.

HEARINGS AND TESTIMONY

The Subcommittee on Disability Policy held a hearing on Friday, March 15, 1991, to consider the reauthorization of the programs under Part H, and appropriate other amendments to IDEA.

The first witness at the hearing was Dr. Robert R. Davila, Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education. He was accompanied by Dr. Judith Schrag, Director, Office of Special Education Programs (OSEP), Department of Education. Dr. Davila discussed the progress the States have been making in implementation of statewide programs under Part H. He also described the Administration's proposal for a reauthorization bill.

The first panel addressed the need for the services provided to infants and toddlers with disabilities and their families, and the dramatic impact of this legislation on eligible families. The panel was composed of: Ms. Michelle Marlow of Baltimore, Maryland, parent of a child with multiple severe disabilities, who now provides parent advocacy services at the John F. Kennedy Institute of the Johns Hopkins Hospital in Baltimore; Robert and Diane Sanny, and their daughters Monica and Gretchen (who has a severe congenital physical developmental disability), of Fairfield, Iowa; and Mrs. Jeannette Behr, parent of a child with autism, and chair of the Minnesota Interagency Coordinating Council, of Lake Elmo, Minnesota.

The second panel presented the perspectives of agencies and organizations at the local, State and national level, which are involved in the provision of services under Part H. The members of this panel testifying were: Tom Gillung of Middletown, Connecticut, Director of the Office of Special Services, Connecticut Department of Education, accompanied by Brian McNulty, Director of Special Education, Colorado Department of Education, testifying on behalf of the National Association of State Directors of Special Education; Dr. Richard P. Nelson, Associate Professor of Pediatrics at the University of Iowa College of Medicine, Iowa City, Iowa, and Director of the Iowa Children with Special Health Care Needs Program under Title V, testifying on behalf of the Association of Maternal and Child Health Programs (of which he is President); Jonathan Wilson, an attorney and School Board member, Des Moines, Iowa, testifying on behalf of the National School Boards Association and the American Association of School Administrators; and Ms. Ruth Rucker, Executive Director of the Mazique Parent/Child Center, Washington, D.C., testifying on behalf of the Low-Income and Minority Parent Empowerment Task Force.

The third panel discussed the program needs and accomplishments from the viewpoint of consumers and advocacy organizations. Testifying on this panel were: George Jesien, project staff di-

rector at the Waisman Center, the University of Wisconsin, Madison, Wisconsin, and President of the Division for Early Childhood (DEC) of the Council for Exceptional Children (CEC), accompanied by Joseph Ballard, director of governmental relations, and Ms. Barbara Smith, executive director of DEC, on behalf of DEC and CEC; Dr. Phillippa Campbell, a developmental specialist at the Parent/Child Center of Children's Hospital of Akron, Akron, Ohio, accompanied by Aric Murray, a youngster with multiple disabilities from Akron, Ohio, on behalf of the Consortium for Citizens with Disabilities; and Mrs. Ann Taylor, mother of a young adult with severe physical disabilities, and chairperson of the Oklahoma Interagency Coordinating Council, on behalf of the Council of Interagency Coordinating Council Chairs.

IMPORTANCE OF THE PROGRAM

P.L. 99-457 has been called by the Mental Health Law Project, the "most important children's disability legislation of the decade". Widely hailed as a major step toward meeting the needs of infants and toddlers with developmental delays, this law has done more than provide incentives and a planning framework for States. According to the Carolina Policy Studies Program:

> The law has encouraged major reforms in the human services delivery systems in the states. These reforms include coordination of funding sources, cross-discipline cooperation, family empowerment policies, the development of statewide system of personnel preparation, and many other long-delayed actions.

That all eligible States and jurisdictions have participated in first 3 years of this program, despite its complexity and demands, is a measure of the interest in, and need for such services throughout the United States.

At the subcommittee hearing, Dr. Robert Davila, Assistant Secretary for Special Education and Rehabilitative Services testified, indicating the Department of Education's strong support for this program:

> We believe that this program can make a real difference in helping to meet the national goal of improving the school readiness of all young children, including young children with disabilities * * *.
>
> * * * This program was special in its design because it focused on the family's role of nurturing young children with disabilities. The legislation sought to support that role by drawing together an often fragmented system of services to meet the unique needs of infants with disabilities. It did this through a focus on interagency cooperation, service coordination, and case management * * *.
>
> * * * During the past four years, we have been impressed by the spirit with which the states have accepted the challenge of the part H program.

Likewise, families testified to the dramatic need for such coordinated comprehensive services, and the impact which they can have on improving outcomes for children and families.

Michelle Marlow, a parent from Baltimore, said:

> The family is the natural caregiver and as we move forward with the implementation of part H, we must move with great care to guarantee that it does not become yet another specialized system of services which has the potential of being crippled by "administrative convenience". If the IFSP is individualized on paper only, we have lost. You have before you a program that is of critical importance to the lives of thousands of infants born each year with disabilities. Please make sure it works for them.

Jeanette Behr, of St. Elmo, Minnesota, chairperson of the Minnesota State Interagency Coordinating Council, and parent of a child with autism, described the challenging task faced by families seeking to address the needs of their children.

> The interagency puzzle is a complex and sometimes confusing array of issues. However, it is a recognition that children, and the families that love and nurture them, have needs that cannot be easily compartmentalized. Especially in early childhood a family's priorities may be rapidly changing and may cross over numerous "systems" boundaries. As I recall the hours of early intervention our daughter received, the most valuable lessons were based on recognizing her worth as an individual, taking into account our abilities, as her parents, to seek out ways to encourage her growth and development and finally, reaching out to other families with children, with or without disabilities, to participate in mutually supportive relationships that meet the needs of each individual in the family as well as the community.

Diane Sanny, from Fairfield, Iowa, reported her family's experience.

> I cannot imagine what the quality of Gretchen's life would have been without the knowledge, direction and support we received * * *.
>
> * * * However, as our good fortune would have it, at this time, part H was being implemented in Iowa; and we became the first pilot family in our area to have an individualized family service plan done. The process itself, was extremely beneficial because having to explain to these professionals what I was feeling for the first time clarified why I was overwhelmed and exhausted by life. The results were immediate * * *. My life was saved * * *.
>
> * * * In closing, I cannot emphasize enough the impact that these services have had on our lives. For Gretchen, it means a brighter future than we ever imagined. There's little doubt that she'll be a self-sufficient, productive member of society due largely to very early and excellent care she received. As for Bob and myself, having a child with disabilities has been the greatest challenge of our lives and we have coped well with much thanks for the support we were given.

These vital programs represent the kind of preventive approach needed which coordinates the efforts of education, health and human services agencies in serving these children and their families. This program represents the first and best chance to help the families of these infants and toddlers to optimize their potential and to reach the nation's number one educational goal: "By the Year 2000, all children in America will begin school ready to learn."

In recognition of this issue, Jonathan Wilson, speaking on behalf of The National School Boards Association, told the subcommittee:

> In this environment, programs that stress early intervention and prevention as an alternative to expensive crisis intervention and long term remediation are of special value to the public schools. Part H, the Early Intervention Services to Infants and Toddlers program, is exactly the sort of innovative federal program that we need. Its aim is both to enhance the development of handicapped infants and toddlers and to minimize educational costs to society by minimizing the need for special education after handicapped infants and toddlers reach school age. Also significant is its emphasis on creating a program design that is comprehensive, coordinated, multidisciplinary, and based on interagency collaboration.

With the skyrocketing costs associated with health care and the disturbing trends in the educational system, the nation cannot afford to fail these children. The need for well-educated workers and productive citizens, including children born with disabilities or at risk for developmental delays, is reflected in a recent statement of the Committee for Economic Development, a group of 250 of our leading corporate executives and educators. Their report, "The Unfinished Agenda: A New Vision for Child Development and Education," recommends beginning with good prenatal care, good nutrition, and other preventive services, and emphasizes the importance of early childhood education to meet children's developmental needs. This document also focuses on the need for family-centered and coordinated interagency programs.

The strong link between health and education has recently been emphasized by the National Health/Education Consortium, a group of some 40 national health and education organizations concerned about the future of America's children.

> Early intervention makes a difference, but research shows that help must be made available as soon as possible after an insult has occurred.

It is clear that Part H is leading the way in addressing this national concern. In witness of this, Dr. Richard Nelson, President of the Association for Maternal and Child Health, testified at the subcommittee hearing that:

> Part H represents a critical national initiative for our nation's youngest citizens. The legislation has the potential to be a template for all future health and human services legislation requiring the concerted efforts of multiple federal programs to address the needs of a population. We

commend the Subcommittee's commitment to these most vulnerable children and families.

ISSUES RAISED

Based upon testimony by witnesses at the March 15, 1991, hearing, additional written testimony submitted for the record, and discussions with experts in the fields of special education, children with special care health care needs, and early intervention and related services, with representatives of the disability community and with representatives of various State agencies, it became apparent that several issues needed to be considered in the development of a reauthorization bill. These issues fall into five broad categories:

(1) Fiscal issues, including:
  (a) a differential funding plan to allow continued participation of States experiencing fiscal crises,
  (b) increased funding related to increased direct provision of services, and
  (c) re-evaluation of the formula under which appropriated funds are allocated;
(2) Comprehensive service delivery system for children, birth through five;
(3) Eligibility of population in need of services;
(4) Clarifications of policies and fine-tuning the system; and
(5) Coordination of Federal roles and other issues.

Fiscal issues

(a) Differential funding plan

Witnesses at the subcommittee hearing reported on the status of the part H program. Some States are on schedule (i.e., they have submitted their fourth year application and plan on submitting their fifth year application on or after July 1, 1991 under which they will provide all early intervention services to all eligible infants and toddlers with disabilities and their families). Other States, which are currently operating a third or fourth year program, may not be able to continue in the program because their State's fiscal situation prevents them from making a commitment to increase services or because the establishment of the local interagency service delivery system has proven more complex than originally anticipated. As a consequence this vital program faces a crossroads which may affect its long-term impact on needed services for a uniquely vulnerable population.

Governor Weicker of Connecticut put this issue eloquently, when he wrote,

> We are facing a $2.4 billion deficit * * *. When I studied the budget proposals for the early intervention program, I saw Connecticut at a crossroads: we could either significantly expand our state funding in order to meet the statutory requirement to have a statewide system in place and thus continue to receive federal funds, or we could drop out of the program and hope to re-enter when our budget picture was not so bleak * * *.

> * * * When it came right down to it, the choice was clear. I simply could not recommend postponement of our commitment to the thousands of disabled infants and toddlers in this State who need our special care.

Tom Gillung, representing the National Association of State Directors of Special Education, noted:

> In face of very difficult budget situations and competing demands for vital human services, advocacy for the funds needed to support full implementation of the part H program is still strong and will be important in efforts to maximize existing resources and to secure additional fiscal support in the future. However, during this reauthorization process we believe Congress must consider the fiscal and programmatic realities some states are facing in their efforts to implement comprehensive, interagency, statewide systems of early intervention services.

As a consequence, the National Association of State Directors of Special Education, the Division of Early Childhood, the Consortium for Citizens with Disabilities, numerous State agency representatives, and professional organizations unanimously recommended that a mechanism be created under which States facing serious financial or administrative problems would be allowed to continue to participate in part H for a limited period of time, even if not in accordance with the timelines in the Act, if the States seeking the extension met certain conditions established by the Congress. Furthermore, they recommended that such mechanism should also be designed so as to give States incentives to continue their participation at the highest possible level. Moreover, States which have stayed on schedule should be rewarded.

(b) Increased authorization of funds

Among the issues raised by many groups were concerns relating to the funding of this program. It is clear that as the States move from the planning phase into provision of services to infants and toddlers with disabilities and their families, there will be a need for an increased Federal commitment. For FY 1990, Congress appropriated $79 million for the part H program. For FY 1991, the appropriation level is $117 million. Yet despite this substantial increase (47%) in funding of the Part H program, the Federal share is still a small portion of the overall costs of providing early intervention services. In addition, there are such serious financial problems in many States that the continuation of these programs is threatened.

Jonathan C. Wilson, a member of the Des Moines, Iowa, Board of Education, testifying on behalf of the American Association of School Administrators and the National School Boards Association said:

> In conclusion, we believe that the efforts of the Committee (sic) on Disability Policy to enhance early intervention services for infants and toddlers, minimize the later costs of special education for school-age children, and encourage interagency collaboration are highly commendable. We applaud the efforts of the Chairman, Senator Harkin, to in-

crease federal funding for Part H and the preschool program. But we must also note that the federal government continues to be very much a junior partner with the states and local schools in providing funding for the education of children with disabilities. We urge you to support budget and appropriations legislation for Fiscal Year 1992 that makes a significant increased federal investment in education including the disabled.

(c) Funding formula

Currently, the formula used for allotting part H funds among the States is based upon the proportion of infants and toddlers in a state compared with the total number of infants and toddlers in the nation, i.e. a census-based allocation formula. This formula does not take into consideration the possibility of significant differences in the proportion of children with developmental disabilities actually receiving services from State to State. Furthermore, it may provide a significant disincentive to States to find and serve children. The Consortium for Citizens with Disabilities (CCD) told the subcommittee that:

> A census-based allocation formula is appropriate for the planning period and necessary because no reliable data have been available on numbers of infants and toddlers with developmental delays or disabilities. However, a continuation of the current census approach as the sole funding mechanism would reward the state serving fewer children, and would penalize the state that has a strong child find system and thus provides services to a larger number of children.

The National Association of State Directors of Special Education (NASDSE) commented:

> Until all participating States have reached full implementation of Part H, NASDSE recommends that funds should continue to be allocated on the basis of census * * *.
>
> * * * Moving to an allocation of funds based on child count rather than census has strong support from many State directors of special education. However, we believe the complex arrangements and possibility of unforseen consequences of moving to a formula driven funding mechanism during the proposed period of diffferential participation weigh against such a shift at this time * * *.
>
> * * * We recommend that the issue of how to allocate Part H funds in the long term (e.g., on the basis of child count) be addressed, preferably, in the next reauthorization of Part H at which time all States have reached full implementation * * *.
>
> * * * NASDSE recommends that consideration be given to directing the Secretary of Education to conduct a study or studies to track and investigate issues related to program financing experienced by States as they approach and move beyond the fifth year of program implementation * * *.

Comprehensive delivery system, birth through five

The subcommittee heard testimony from several panelists which indicated the need for changes in both parts B and H of the Act in order to provide for a smoother transition for toddlers moving from early intervention services to the preschool program. Many witnesses expressed the need for a "seamless web" of services for children with disabilities, aged birth to five, inclusive.

George Jesien, testifying on behalf of the Division for Early Childhood, told the subcommittee:

> In order to ensure that services to an eligible child and family are not terminated or delayed unnecessarily, allow states to decide the definition of the "technical" age of three to facilitate a smooth and nondisruptive transition from the Part H funded program to the Part B, Sec. 619 funded program. This flexibility would allow states to decide what is the best age at which to transition children for both the child and family and the agencies, e.g., 2 years 7 months by Sept. 1, etc. However, this amendment should in no way revise the absolute right to a free appropriate public education under Part B for eligible children upon their 3rd birthday. In other words, an eligible child should be receiving services according to an IFSP or IEP either under Part H or Part B by the age of three.
>
> Part H should be amended to authorize the expenditure of Part H funds on services to children older than two years if they have not yet reached the "technical" age of three established by the state for entry into the preschool program. Sec. 619 should also be amended to allow expenditure of preschool funds on children less than three years of age who are the "technical" age of three including flow-through funds and state set-aside funds.
>
> Applications for funding under both programs shall include documentation on how both programs are coordinating transition including pertinent interagency agreements. Part B would need complimentary (sic) legislative action as well, in order to implement this provision.

Other witnesses emphasized to the subcommittee the importance of parental participation in decision-making about this transition process and the necessity of coordination between the lead agency and local and intermediate educational agencies. Likewise, in order promote better program coordination, States need to be given the authority to substitute an IFSP for the IEP, to use a more generic definition, "developmental delay" similar to that under part H, for eligibility for part B services, and to allow the State Interagency Coordinating Council to advise the lead agency, if desired by State policy-makers.

Eligibility

The program under part H addresses the needs of infants and toddlers, aged birth to two years, inclusive, under three eligibility standards:

1. children who "are experiencing developmental delays",

2. children with a certain "diagnosed physical or mental condition which has a high probability of resulting in developmental delay", and

3. states have the option of serving, children "at risk for substantial developmental delays if early intervention services are not provided."

At the present time, given the financial difficulties being experienced by many States, it appears that most States may not serve many categories of "at-risk" children. No witnesses or disability advocates recommended changes in States' discretion with respect to inclusion of at-risk populations to be served at the present time. In addition, concern was expressed that traditionally underserved groups such as minorities, low-income and rural populations, are not likely to fully participate in the part H program if special efforts are not made to include them.

Ruth Rucker, Executive Director of the Mazique Parent/ Child Center in Washington, D.C., speaking on behalf of the Low Income and Minority Parent Empowerment Task Force, testified to their concern about how States will assure that low-income and culturally diverse families have access to appropriate early intervention services.

> Infants and toddlers will benefit from early intervention only if services are provided in ways compatible with the beliefs and the culture of the family. Yet, to date few states have made more than piecemeal efforts to overcome the barriers created by poverty, language, geographic location and cultural differences. These obstacles need to be addressed systematically in states' Part H planning.

She quoted from a monograph published by the Georgetown University Child Development Center:

> Within ethnic groups, there are many cultures and subcultures, though some common history may be shared. Cultural competence refers to a program's ability to honor and respect those beliefs, interpersonal styles, attitudes and behaviors both of families who are clients and the multicultural staff who are providing services. In so doing, it incorporates these values at the levels of policy, administration and practice.

She described the unavailability of culturally competent professionals to serve isolated rural areas, and emphasized the need for expanded child-find, public awareness and out-reach activities to assure that services reach populations in need.

The subcommittee also heard concerns expressed that the "at-risk" category of children may not need the same level of services as children with known developmental delays. Some testimony received suggests that at least pilot programs and demonstration projects aimed at identification, tracking and referral of such children to determine potential eligibility seem to be appropriate for consideration.

Clarifications and fine-tuning

During the first 3 years of implementation, States were called upon to carry out planning activities and to develop policies which would establish the comprehensive statewide systems envisioned in the law. Tom Gillung reported to the subcommittee, on behalf of the National Association of State Directors of Special Education, that a variety of fine-tuning changes were needed but that major re-structuring should be avoided:

> Our recommendations [are] * * * to maximize the investments made to date and support the continued development of statewide comprehensive systems of early intervention services in all states, it is important to institute measures that will enable states to continue in the program * * *.
>
> * * * The experience of the states over the last four years confirm the critical importance of maintaining the flexibility necessary for states to fit program requirements to their special circumstances * * *.
>
> * * * it will be important to minimize changes in the statute that may further impede the states' progress in reaching full implementation.

One area requiring further clarification brought to the attention of the subcommittee, relates to the authority and roles of the lead agency. Whereas the lead agency in a majority of States is the State educational agency, in some States it is the State public health or human services agency or a specially designated entity. In each case, under State law one agency has no authority to make policy or enforce decisions which are another agency's responsibility. Furthermore, this creates a problem for parents who seek remedies for problems which they encounter getting early intervention services. Thus, a clear mechanism is needed by which the State assigns responsibility to various agencies and empowers the lead agency to monitor compliance.

Needed clarifications regarding a variety of services, and procedural issues which affect the delivery of services, were brought to the subcommittee's attention. Many of these issues related to the use of current and more appropriate terminology. For instance, the Division of Early Childhood suggested that the terms "communication development", "social/emotional development" and "adaptive development", replace the terms "language and speech", "psychosocial" and "self-help", respectively.

Likewise, the Consortium for Citizens with Disabilities and the State Part H Coordinators emphasized the need to keep language in the legislation which focuses on the importance of the family. They noted that families don't like to be considered "cases" or to be "managed". They prefer the term "services coordinator". Furthermore, families need to be involved in the decision-making process at many different levels, especially in choosing the intervention services which they desire for their children.

Additional needed clarifications of existing policies identified by the disability community and by the special education and health provider groups relate to provision of vision services, assistive tech-

nology devices and assistive technology services, and transportation and related costs that are necessary to enable an infant or toddler and the family to receive early intervention services. Likewise, these groups requested clarification that family therapists, orientation and mobility specialists (for the visually impaired), and pediatricians and other physicians appropriately trained to carry out necessary developmental evaluations are appropriate providers of early intervention services.

Nearly all professional groups, the State ICC coordinators, and other early childhood intervention advocates identified a need to continue to expand training opportunities, not only for parents, but also for professionals and paraprofessionals. George Jesien, representing DEC, noted "critical areas of need" for technical assistance and training including in-service training. These included systems planning, implementation, personnel qualifications and skills, and recruitment, training and maintenance of professionals, including minorities.

Dr. Robert Davila, Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, recommended to the subcommittee that the reauthorization bill "provide strong encouragement to the States to establish sliding fee schedules for direct services paid for with those (part H) funds." However, other witnesses testified that current policy which provides discretion to States should be retained.

Asked about the need for changes in State or Federal policies, Tom Gillung, for the National Association of State Directors of Special Education, said:

> It would be our position that this provision be optional. We recognize that in many States there currently are service providers that already do provide a sliding fee scale for the provision of service.

the Consortium for Citizens with Disabilities explained:

> * * * sliding fee assessments often do not consider the kinds of actual expenses families incur in day to day living. Effects on the family of an infant or toddler with a disability may include such things as loss of job or career opportunity and loss of leisure/family time, as well as direct expenditures for such things as the purchase or rental of medical equipment and supplies, special adaptations to the home, higher utility bills, the purchase of special transportation, dietary supplements, diapers and special clothing, respite expenses, mileage to medical appointments, additional therapy costs including family therapy, higher insurance premiums, and co-pay amounts on other medical bills not covered by insurance. In addition, evidence indicates that funds recouped from programs utilizing schedules of sliding fees do not always cover the administrative costs of their collection. Finally, even though the law stipulates that inability to pay may not be used as a reason to deny early intervention services, even small fees can act as a disincentive to participation in the Part H program for some families, may be invasive to the integ-

rity of their family unit, and may in fact ultimately result in keeping them from applying for services.

The subcommittee also heard testimony that services provided under the part H program should be provided in the most natural setting. For such young children, natural environments are the home, and other settings in which children without disabilities receive care, such as non-segregated day care settings.

Finally, the subcommittee heard that State Interagency Coordinating Councils need flexibility. Specifically, the restriction on the size of the council membership has sometimes constrained the council's ability to carry out its coordinating function with important agencies or programs, and has occasionally led to inadequate input from parents. Ann Taylor, testifying for the Council of Interagency Coordinating Council Chairs, suggested that the size of council memberships be increased, including 20% to 25% parents, some of whom have children in the 0–6 year old range, and that councils be able to select their own chairperson. Fine-tuning of policy in this regard would facilitate effective service programming.

Coordination and other issues

Several issues related to the Federal role in part H were brought to the attention of the subcommittee. In particular, the Division for Early Childhood, the Consortium for Citizens with Disabilities, the State Interagency Coordinating Council chairs and various professional groups, particularly representing the health community, recommended that a Federal Interagency Coordinating Council be placed in statute. Such a change would codify current Department of Education practice, and would help to ensure continuing input from, and coordination among the wide range of Federal programs and agencies whose activities and policies are crucial to the success of part H.

Likewise, the subcommittee was urged by parents whose children are in school settings under the jurisdiction of the Department of Defense, to assure that their children will have access to developmentally appropriate services and procedural safeguards.

III. Legislative Consideration and Votes in Committee

At the request of all members of the Subcommittee on Disability Policy, the bill was considered directly by the Committee on Labor and Human Resources.

In an executive session of the Committee on Labor and Human Resources on Wednesday, May 22, 1991, the motion to favorably report the bill as introduced with technical and conforming amendments was passed unanimously by voice vote of the Committee.

IV. Explanation of the Bill and Committee Views

PROVIDING A COMPREHENSIVE DELIVERY SYSTEM FOR CHILDREN BIRTH THROUGH FIVE YEARS OF AGE AND THEIR FAMILIES

The bill includes several changes to parts B and H of the Act designed to facilitate the development of a comprehensive "seamless" system of services for children aged birth to 5, inclusive, and their

families which will ensure: (1) a smooth transition for children moving from early intervention programs under part H to preschool programs under part H and (2) the delivery of appropriate services.

First, section 2 of the bill amends the definition of "children with disabilities" in section 602(a)(1) of the Act to provide discretion to States to include children aged 3–5, inclusive, who are "experiencing developmental delays," as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and who, by reason thereof, need special education and related services.

The committee recognizes that some young children experiencing developmental delays do not fit neatly under any particular category listed in section 602(a)(1) of the Act and yet clearly have a disability. Rather than forcing an educational agency to mislabel a child with a disability at such an early age, the amendment provides the option to use a more developmentally appropriate category.

The intent of the amendment is not to expand or diminish the population of children eligible under part B, but rather to provide a State with the discretion to ensure that all eligible preschoolers are served and that children are not inappropriately labeled.

The language in the amendment is comparable to the language used in prong one of the definition of "infant or toddler with a disability" under part H. The inclusion of this language should not be construed, however, as requiring a State to use the same criteria for 3 to 5 year olds as it uses for infants and toddlers. Thus, a State may develop different or more stringent criteria for children aged 3–5, inclusive, than it uses for infants and toddlers so long as the criteria do not deny eligibility to a child who would otherwise be eligible under other categories included in section 602(a)(1) of the Act.

The use of the phrase "communication development" in lieu of "language and speech development," "social or emotional development" in lieu of "psychosocial development," and "adaptive development" in lieu of "self-help skills" is explained in the portion of the report pertaining to section 8 of the bill (definitions under part H).

Second, section 4 of the bill permits, consistent with State policy, local educational agencies and intermediate educational units, with the concurrence of the parents or guardian, to use individualized family service plans (IFSPs) described in section 677(d) of part H for children aged three to five, inclusive, instead of the individualized education program (IEP) described in section 614(a)(5) of part B.

The committee believes that this amendment is one of the most critical provisions in the bill. It is imperative that educational agencies provided appropriate services to children aged 3 to 5, inclusive. Early intervention research indicates that certain types of services required by preschoolers with disabilities are comparable to the types of services required by infants and toddlers with dis-

abilities that are included in their individualized family service plans.

In particular, the research indicates that one of the most consistent factors in the most successful preschool programs is family support and involvement. If a program enables a family to address the particular needs of a preschooler and access services, it is much more likely that the child will make significant gains.

The committee urges State educational agencies, local educational agencies, and intermediate educational units to continue to provide the types of services set out in an IFSP to a preschooler where the family concurs that such services would be appropriate.

In particular, because of the similarity between social work services, (which are related services under part B) and family training, counseling, and home visits and service coordination (which are early intervention services under part H), the committee urges the continuation of family training, counseling, and home visits and service coordination.

The bill also includes a series of additional amendments designed to promote a seamless system of services for children with disabilities aged birth to five, inclusive. The committee finds that it is critical that there will be no gap in services when a child turns three; and that the services continue to be appropriate and family-focused.

Section 3 of the bill adds a new requirement to the State plan directing State educational agencies to set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program under part H who will participate in preschool programs under part B, including a method of ensuring that when such a child turns three (thereby becoming eligible for a free appropriate public education), an individualized education program or, consistent with section 614(a)(5) and section 677(d), an individualized family service plan, has been developed and is being implemented by the child's third birthday.

Fourth, section 5 of the bill amends the preschool grant provision (section 619 of the Act) to permit a State to use not more than 20 percent of its preschool grant for planning and development of a comprehensive delivery system, for direct and support services for children with disabilities, aged 3 to 5, inclusive, and at the State's discretion, to provide a free appropriate public education, in accordance with the Act, to 2-year old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

The committee intends that these funds, as well as funds authorized under part H, may be used, among other things, to support planning and other activities by the Interagency Coordinating Council, required by section 682 of part H of the Act, designed to effectuate this seamless system of service delivery.

In addition, the bill permits a local educational agency or intermediate educational unit, if consistent with State policy, to use funds to provide a free appropriate public education, in accordance with part B, to 2-year old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving or have received, services under part H.

The bill also specifies that part H does not apply to any child with a disability receiving a free appropriate public education, in accordance with part B, with funds received under section 619.

Section 12 of the bill adds a new requirement to section 678 for the State's application under part H. The provision is similar to the amendment made to the State plan provision under part B. The amendment specifies that the application must include a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under part H who are eligible for participation in preschool programs under part B, including a description of how the families will be included in the transition plans and how the lead agency under part H will notify the appropriate local educational agency or intermediate educational unit in which the child resides at least 90 days before a child, who may be eligible for the preschool program under part B in accordance with State law, turns three years of age.

Section 13 of the bill amends section 679 to specify that part H funds may be used to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year. This amendment, like the comparable amendment to part B, is designed to ensure a smooth transition from early intervention programs to preschool programs, by permitting States to decide the best approach for meeting the needs of the children in their State.

EARLY EDUCATION DEMONSTRATION PROGRAM AND CHILDREN AT RISK

Section 6 of the bill amends the demonstration program for children with disabilities (section 623 of the Act) to authorize the use of funds for programs that focus on individuals who are at risk of having substantial developmental delays if early intervention services are not provided.

The committee is disappointed that the fiscal crisis faced by many States is curtailing efforts to serve infants and toddlers who are "at risk." The purpose of the amendment is to ensure that discretionary programs authorized under section 623 of the Act may include these children. Projects may include, among other things, activities addressing identification of risk factors and populations, service needs, effective intervention strategies, incidence and prevalence, as well as system planning and the coordination of all available resources for children who are at risk of having substantial developmental delays if early intervention services are not provided to them and their families.

Although no changes are made to part H concerning infants and toddlers who are "at risk", the committee encourages States to explore all available options to serve these children. Specifically, the committee encourages Governors to appoint agencies and other representatives whose primary concern is children who are "at risk" to the State Interagency Coordinating Council. Further, States are encouraged to provide technical assistance to the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) so that personnel providing EPSDT may be fully aware of the entire population eligible or potentially eligible under part H.

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The committee urges those States that do not include infants and toddlers who are "at risk" among the eligible part H population, to establish a mechanism to ensure that such children are referred to the part H program in a timely manner for a part H assessment when it is determined that they may be eligible for part H services. The committee further encourages States to implement aggressive child find, public awareness, and outreach to families of children who might not initially have met eligibility criteria for the part H program but who may subsequently be identified as eligible for such services.

The bill also authorizes the use of funds to facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H. The Committee strongly believes that special efforts must be made, including the development of new strategies, to ensure that parents of all children eligible for services are made aware of the opportunities available to their children.

The bill also authorizes the funding of "systems change" projects similar to those currently authorized under section 624 pertaining to children with severe disabilities. The amendment authorizes the funding of Statewide projects, in conjunction with a State's application under part H and a State's plan under part B, to redesign the delivery of early intervention services to infants and toddlers with disabilities and their families, and special education and related services to preschool children with disabilities and their families from segregated to integrated environments.

The committee includes this new authority in order to enable the Secretary to assist programs, which have traditionally provided services to infants and toddlers with disabilities and their families in isolation from infants and toddlers without disabilities, to begin to provide early intervention services in natural environments, including the home, and community settings in which children without disabilities participate.

The committee intends that programs that may be supported by the Secretary under existing section 623 may include the creation of child health/education centers to strengthen the link between health and education and enhance the capabilities of health and education professionals in meeting the needs of infants and toddlers and preschool-aged children with disabilities.

These centers could provide the following types of activities: multidisciplinary fellowships for health care providers and educators; technical assistance for curriculum design and credentialling to schools of education, nursing, social work, allied health and medicine and related training programs; evaluations of the effectiveness of models of early intervention and transitional programs; and annual institutes drawing together the centers and leaders in the fields of health care and education for the development of policy and strategic planning toward the coordinated implementation of part H and part B of the Act.

PARENT TRAINING CENTERS

Section 7 of the bill increases the authorization level for parent training centers in order to assist them in meeting their expanded

authority to address the needs of families with infants and toddlers with disabilities. It is the committee's intent that each existing parent training center should receive an additional $50,000 for this purpose, to the extent sufficient funds are appropriated.

By increasing the authorization level, it is the intent of the committee that the Centers increase their training activities for parents of children receiving part H services, including activities designed to enhance an understanding of their rights under part H and to impart skills necessary to enable families to facilitate their own child's development.

In addition, funds may be used to impart skills necessary to enable all families to perform service coordination-type services, especially for those families that choose not to take advantage of the service coordination services available as of right under the Act.

It is also the committee's intent that funds may be used to assist in training parents to become qualified service coordinators for other infants and toddlers with disabilities and their families.

DEFINITIONS UNDER PART H

Section 8 of the bill updates the terminology used in section 672 to describe "infants and toddlers with disabilities" and "early intervention services" consistent with the language used by those working in the early intervention field.

Specifically, the phrase "speech and language development" will be referred to throughout the remainder of the Act as "communication development." The intent of this change, as explained above, is not to change current policy; rather, to update the terminology. Thus, the term "communication development" is intended to include language, speech, and hearing.

Communication development includes acquisition of communication skills during preverbal and verbal phases of development, receptive and expressive language, including spoken, non-spoken, and sign language means of expression, the use of augmentative communication devices, and speech production and perception. Communication development also includes oral-motor development, specifically those neuromuscular and structural conditions affecting prespeech oral-motor development, speech sound production, and feeding and swallowing processes. Related to hearing, communication development includes development of auditory awareness, auditory, visual, tactile, and kinesthetic skills, and auditory processing for speech or language development.

The phrase "social or emotional development" will be used instead of the phrase "psychosocial development" throughout the remainder of the Act and the phrase "adaptive development" will be used instead of the phrase "self-help skills throughout the remainder of the legislation."

The committee is concerned that the existing definition of "physical therapy" in the regulations implementing part H has not kept pace with advances in the field. Thus, the committee urges the Department to review its current definition of "physical therapy" to determine whether it needs to be updated.

Furthermore, the bill retains the term "case management" in the definition section but in subsequent sections of the Act uses the

term "service coordination" in lieu of the term "case management." The committee decided to change the references in other sections in the legislation because it agrees with parents that "they are not cases and do not need to be managed." The intent of this provision is not to change the policy set out in the current definition of "case management" in the regulations not to affect in any way the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to "case management" services.

Section 8 of the bill also clarifies those services that are considered "early intervention services" by adding vision services, assistive technology devices and assistive technology services, and transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services.

The committee recognizes the importance of assistive technology services and devices, vision services, and transportation in part H because for particular children they are a critical part of the early intervention system. The inclusion of these specific services simply codifies current policies adopted by the Department of Education.

For example, current regulations promulgated by the Department of Education specify that early intervention services under part H include transportation that is necessary to enable a child and the child's family to receive early intervention services. The Committee endorses the definition of transportation set forth in the Department's regulations (34 CFR section 303.23), which includes reimbursement for the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and related costs (e.g., tolls and parking expenses). Thus, the inclusion of transportation services is not intended to expand current obligations.

The committee also wishes to state its concurrence with the Department of Education's interpretation regarding the use of sliding fee scales that is set out in its regulations implementing part H and the analyhsis accompanying the regulations. The committee believes that this policy is consistent with the original expressions of congressional intent relating to P.L. 99-457. The committee urges a State to undertake an in-depth analysis, including studying the experiences of other States, before adopting a policy regarding sliding fees.

Furthermore, the bill clarifies that qualified personnel include family therapists, orientation and mobility specialists, and pediatricians and other physicians. These clarifications, again, codify current policies adopted by the Department of Education and thus are not intended to expand current obligations.

For example, "medical services" provided by pediatricians and other physicians are still considered "early intervention services" only when they are provided for diagnostic or evaluation purposes. "Health services" include communication by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services. The term does not include services that are surgical in nature or purely medical in nature; nor does it include devices necessary to control or treat a medical condition or medical-health services (such as immunizations and

regular "well-baby" care) that are routinely recommended for all children. (See 34 CFR Section 303.13.)

The committee agrees with the "note" that follows section 303.13 of the regulations.

> The definition in this section distinguishes between the health services that are required under this part, and the medical-health services that are not required. The IFSP requirements in subpart D provide that, to the extent appropriate, these other medical-health services are to be included in the IFSP, along with the funding sources to be used in paying for the services. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part.

With respect to the inclusion of family therapists in the legislation, the committee recognizes that family therapists provide services that are included within the part H program and that they do so from a family systems perspective. The Committee recognizes that some institutions of higher education offer distinct degrees for "marriage and family therapy" and that some States include separate certification or licensure requirements for such individuals. Therefore, it is the committee's intent that professionals with the title "marriage and family therapists" may be included in the part H program as "family therapists."

The inclusion of family therapists among the list of qualified personnel should in no way be construed to affect State certification or licensure policies; nor should the addition be construed in any way to diminish the role of other qualified professionals, such as psychologists, school psychologists, social workers, and others currently included in the Act, in providing any early intervention services under the Act.

Furthermore, the inclusion of family therapists is in no way intended to broaden the scope of family services that should be included under part H. Consistent with current policy, services that a family may need, but do not relate to the developmental needs of the infant or toddler with a disability, are not early intervention services under the part H.

Finally, the bill includes the policy in the regulations regarding where services are provided to infants and toddlers with disabilities and their families: to the maximum extent appropriate, infants and toddlers must be provided early intervention services in natural environments, including the home, and community settings such as day care centers, in which children without disabilities participate.

The term "natural environments" refers to settings that are natural or normal for age peers who have no apparent disability. The descriptor "to the maximum extent appropriate" is not meant to qualify the appropriateness of the natural environmental as the primary setting for the child. Rather, it is intended to allow flexibility and individualized programming for the infant or toddler with a disability. For example, the primary natural environment for an infant or toddler is the home. Where group settings are utilized, the infant or toddler with a disability should be placed in groups with age peers without disabilities, such as playgroups, day

care centers, or whatever typical group setting exists for infants and toddlers without disabilities.

DIFFERENTIAL FUNDING

Currently, the Act specifies certain criteria that a State must satisfy in order to continue to be eligible for assistance under part H. For years one through three, the Act specifies that a State must plan and adopt policies consistent with the establishment of a Statewide system. In the fourth year, a State must have in effect a Statewide system except that with respect to the obligation to provide early intervention services specified in an individual family service plan, the State need only conduct multidisciplinary assessments, develop IFSP's, and make available service coordination services. In the fifth year, the State must have in effect the Statewide system for all infants and toddlers with disabilities.

For FY1990, Congress appropriated $79 million for the part H program. For FY1991, the appropriation level is $117 million. The 47 percent increase was included in anticipation that States would be moving from a planning to a service delivery mode. The part H program is forward-funded; thus, the FY1991 funds become available on July 1, 1991.

The differential funding provision included in the legislation provides rewards for those States that are on schedule and at the same time allows States that would have dropped out of the program to stay in the program. An identical provision is included in H.R. 2127, which was signed into law on June 6, 1991 (P.L. 102-52). Because this provision has already become law, it is the committee's expectation that it will be deleted from this bill on the floor of the Senate.

Set out below is a brief description of the provision. A detailed description of the identical provision included in H.R. 2127, including an explanation prepared by the U.S. Department of Education, is set out in the Congressional Record at page S 6259 (May 21, 1991).

In general, those States that are on schedule, i.e., are able to meet their fifth year requirements, will be eligible, starting on July 1, 1991, to receive their full share of the FY1991 allocation (and the FY1992 allocation) and funds reallotted from States that have requested differential funding. A State's total allocation could not, however, be more than twice the amount it was eligible to receive in the previous fiscal year if it met all requirements for that year.

Those States that have met their fourth year requirements (the system is in effect and the services required for the fourth year are provided to eligible children) but are unable to meet their fifth year requirements at that time will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants a request for extended participation. Two one-year requests may be granted to each State.

These States will be eligible, starting on July 1, 1991 to submit an application and, if their request for extended participation is granted, receive an amount equal to the amount they received in FY1990. In addition, they would be eligible to receive a reallotment in an amount not to exceed the amount they would have receved

for FY1991 if they had been in full compliance, but only if there are funds available after the "full compliance" States have received their reallocation. The same policy would apply in FY1992.

Those States that have met their third year requirements (planning and policy development) but have not yet submitted their application for the fourth year of participation and are unable to meet the fourth year requirements will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants a request for extended participation. Again, two one-year extensions may be granted per State.

These States, which have held off submitting their fourth year application, will be eligible to submit a request for extended participation. If the request is granted, the State would receive an allocation equal to the amount it received for FY1989. If a State seeks a second extension from fourth year requirements for the next fiscal year (any time after July 1, 1991), and it is approved, the State will receive an amount equal to the amount it would have been eligible to receive for FY1990. States seeking an extension from fourth year requirements are not eligible for a reallotment.

The bill permits a State to receive approval for two one-year extensions, after which the State will be eligible for a grant under part H only if it meets the criteria pertaining to eligibility for fifth and succeeding fiscal years. Thus, once a State takes advantage of the extended participation provisions, it cannot re-apply for funding under part H unless it has in effect a Statewide system of early intervention services for all infants and toddlers with disabilities within the State and is serving all eligible infants and toddlers with disabilities and their families.

STATEWIDE SYSTEM

The Committee recognizes that in order to develop a "statewide comprehensive, coordinated, multidisciplinary, interagency program of early intervention services to infants and toddlers with disabilities and their families", States are engaged in many activities related to implementation of the components required by part H.

These system development efforts are consistent with those of other Federal initiatives that call for a change from the traditional focus on separate categorical programs toward one of systems-building at the community level. This "systems approach" to service delivery is designed to eliminate the complex maze that parents have had to negotiate while going from one agency to the next, dealing with each program's funding requirements, eligibility criteria, rules and regulations, and service delivery designs.

The part H program is consistent with this theme of developing community-based systems of family-centered services. As explained previously in the report, many witnesses and others working in the human services field have suggested that part H represents a new paradigm for the delivery of all services and supports to individuals with special needs and their families in our communities.

The committee strongly recommends that States coordinate part H efforts with other system efforts currently under development in States, especially the Children with Special Health Care Needs ef-

forts under the Title V, Maternal and Child Health Block Grant, the National Institute of Mental Health's Child and Adolescent Service System Program (CASSP), Head Start, the child Care and Development Block Grant, the Early and Periodic Screening, Diagnosis and Treatment Program under Title XIX (EPSDT), and similar efforts under Child Welfare and Technology Assistance.

The committee cautions that while great progress is occurring in systems development throughout the country, if such coordination does not occur, there is a danger that a new reality could emerge; that is, "multiple systems" instead of "multiple programs" at the local level. This new reality would be reflected in numerous but unrelated interagency efforts occurring at the community level with all the same agencies as members for each initiative. This is certainly not desirable as it could leave parents in the same position as before, negotiating across systems instead of agencies. It is certainly no timesaver for the agency representatives who must participate in each initiative.

Section 10 of the bill amends the requirements in section 676 of the Act pertaining to the Statewide system. First, the bill clarifies that the comprehensive system of personnel development includes the training of paraprofessionals.

Further, in order to avoid duplication of effort, the comprehensive system of personnel development must be consistent with the comprehensive system of personnel development established under part B. It is the committee's intent that the term "support personnel" under section 613 of the Act include paraprofessionals to ensure the consistency prescribed by this amendment.

The committee is aware of the overlapping requirements under parts B and H regarding the location, identification, and evaluation of all children with suspected disabilities from birth. The committee is also aware of other Federal and State programs that have similar requirements for child-find and evaluation, such as the Early and Periodic, Screening, Diagnosis, and Treatment Program under Medicaid. It is the committee's expectation that these efforts and other identification efforts will be coordinated to decrease any overlap in the provision of such services. The committee also intends that, to the extent a State educational agency and the lead agency under part H establish a unified child-find system, the system be consistent with both parts B and H of the Act.

Section 10 of the bill also clarifies that the role of the lead agency includes general administration and supervision of programs and activities receiving assistance under part H and the monitoring of programs and activities used by the State to carry out part H, whether or not such programs or activities receive part H assistance, to ensure that the State complies with the part H requirements. This provision codifies the Department's current policy set out in the regulations implementing part H.

The bill also clarifies the responsibility of the lead agency with respect to the assignment of fiscal responsibility among State agencies. Section 10 specifies that the lead agency is responsible for carrying out the assignment of fiscal responsibility to various agencies made in accordance with the State's application. Section 12 of the bill amends section 678 to require the State to designate an individ-

ual or entity that will be responsible for assigning the financial responsibility among appropriate agencies.

In other words, the State (i.e., the State legislature or the Governor or his or her designee) decides which agencies have financial responsibility, consistent with Federal and State law, and the lead agency is responsible for ensuring that these decisions are carried out.

The committee expects that this amendment will reflect the particularities of each State's system of governance while at the same time ensuring a single line of responsibility for families to avoid "buckpassing" among agencies.

INDIVIDUALIZED FAMILY SERVICE PLAN

Section 11 of the bill includes several clarifications to section 677 of the Act pertaining to the individualized family service plan. First, section 11 of the bill includes several clarifications that recognize the central role played by families in designing and implementing effective early intervention services for their infants and toddlers with disabilities. The bill clarifies that the assessment must be family-directed and may, with the concurrence of the family, include an assessment of the family's resources, priorities, and concerns and identify family preferences, supports, and services necessary to enhance the parents' and siblings' capacity to meet the developmental needs of their infant or toddler with a disability.

Consistent with the clarification to the provision relating to the assessment, the provision in the Act specifying the contents of the IFSP relating to the family is also clarified. The bill replaces the phrase "strengths and needs" with the phrase "resources, priorities, and concerns."

In addition, the bill requires that the IFSP include a statement of the natural environments in which early intervention services will be provided.

Further, the bill adds a new subsection (e) regarding parental consent, which provides that the contents of the IFSP must be fully explained to the parents or guardian must be obtained prior to the provision of early intervention services described in the IFSP. Services to which consent is provided by the parents or guardian must be provided, even if consent is not granted for other services. This policy is consistent with the voluntary philosophy of this program and the important role the family plays in the life of the infant or toddler with a disability. Of course, this new subsection does not modify section 677(a)(2) that the parents or guardian must be an integral member of the multidisciplinary team charged with developing the IFSP.

Section 11 of the bill also amends the provision in the Act that limited the service coordinator (formerly the case manager) to a person from the profession most immediately relevant to the infant's or toddler's or family's needs. Under the amendment, the service coordinator could also be a person who is otherwise qualified to carry out all applicable responsibilities under part H.

For example, social workers and others trained in areas of human behavior and human services may not be "from the profes-

sion most immediately relevant to the infant's or toddler's or family's needs" but they are trained to provide case management or service coordination services and therefore are clearly qualified to provide such services. In addition, a parent may become qualified to perform all of the service functions carried out by a service coordinator and provide the service coordination service for another family if the parent obtains appropriate training by qualified persons.

The committee recognizes that parents are also the coordinators of their own child's affairs and that in some instances these responsibilities may be life-long. These responsibilities include determining when and what early intervention services their child should receive, consistent with State child abuse and neglect laws. Therefore, in some circumstances, a parent may elect to serve in the capacity of "service coordinator" for purposes of part H and elect not to use the "service coordination" services available under part H.

The committee expects that in making the decision to reject these service coordination services, the parents receive adequate information about the family's right to the service and the full range of the functions that a service coordinator may perform under part H. Parents may want to assume certain responsibilities while retaining a service coordinator provided by the system to provide other aspects of the service. As explained previously in the report, parent training centers are encouraged to provide training to parents to better enable them to carry out their parental roles and responsibilities in this regard.

It is not the committee's intent that this amendment be construed to require a State to pay a parent to serve as the service coordinator for his or her own child and family in those instances where the parents have rejected all or a portion of the service coordination services available under part H. However, it is the committee's intent that a State may, at its discretion, decide, as a matter of State policy or practice, to pay a parent to be his or her own service coordinator or reimburse a parent for carrying out certain tasks.

The committee has received several inquiries regarding the policy of not only specifying the early intervention services required by the infant or toddler with a disability in an IFSP but also including "other services" that are not considered "early intervention services." Specifically, the inquiries concern the nature and extent of the State's responsibility to make available or pay for these "other services."

The committee supports the policy concerning this issue set out in the current regulations implementing part H at section 303.344 and the note that follows this section. Section 303.344(d) specifies that the IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler and the family. Early intervention services are defined in section 303.12 of the regulations to mean services that are designed to meet the developmental needs of each eligible infant or toddler with a disability and the needs of the family related to enhancing the infant's or toddler's development.

Section 303.344(e) specifies that, to the extent appropriate, the IFSP must also include medical, prevention, and other services

that the child needs, but that are not required under this part and, if necessary, the steps that will be undertaken to secure those services through public or private resources.

Section 303.344(e) also specifies that the requirements in the preceding paragraph do not apply to routine medical services (e.g., immunization and "well-baby" care that are routinely recommended for all children), unless a child needs those services and the services are not otherwise available or being provided.

The note following the regulation makes it clear that these other services, which do not address the developmental needs of the infant or toddler with a disability, are neither required nor covered under part H. Thus, the listing of the non-required services in the IFSP does not mean that those services must be made available or funded under part H; nor does it mean that the eligibility criteria for certain of these services under other Federal or State programs must be altered. The identification of these services, however, can be helpful to both the child's family and the service coordinator.

STATE ASSURANCES

Section 12 of the bill adds a new assurance to section 678(b) of the Act that specifies that, beginning in fiscal year 1992, each State application must include satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of historically underserved groups, including minority, low-income, and rural families in the planning and implementation of part H and to ensure that such families have access to culturally competent services within their local areas.

The committee recognizes that subtle disregard for the communication styles and values of representatives of different cultural groups can discourage these individuals from participating in the early intervention program. Thus, it is especially important to carry out early intervention activities in a "culturally competent" way. This means that child find, referrals, and early intervention services and supports must be conducted and provided in a manner that honors the beliefs, interpersonal styles, attitudes, and behaviors of those individuals receiving services, and in a manner which has the greatest likelihood of ensuring their maximum participation in the program.

PROCEDURAL SAFEGUARDS

Section 14 of the bill includes two clarifications to the procedural safeguards provisions in section 680 of the Act. First, the bill clarifies that the parents or guardians has the right to written notice of and written consent to the exchange of information among agencies, consistent with Federal and State law.

This provision clarifies current policy. The phrase "consistent with Federal or State law" is included in order to make it clear that this provision is not intended to supersede existing child abuse laws and other valid statutes protecting children or the public health that provide for the sharing of information among agencies.

Second, the bill specifies that the parents or guardian have the right to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention serv-

ice under this part in accordance with State law without jeopardizing other early intervention services under part H. The intent of this amendment is to ensure that. through informed decision-making on what services exist and are recommended for a family, the family selects the services it desires at that time. Of course, parents or a guardian can consent to a particular service and then withdraw that consent at any time without jeopardizing other services.

The phrase "in accordance with State law" is included in order to make it clear that this provision is not intended to supersede existing State laws governing child abuse and other valid statutes protecting children or the public health.

STATE INTERAGENCY COORDINATING COUNCIL

Section 15 of the bill modifies the provision in section 682 of the Act pertaining to the size and composition of the State Interagency Coordinating Council, the appointment of the chair, and the functions of, and allowable expenditures by, the Council.

With respect to the size of the Council, the bill deletes the 15-member limit and specifies that the Council must be composed of at least 15 members but not more than 25 members unless the State provides sufficient justification for a greater number of members in its application. The committee intends that the "sufficient justification" requirement is satisfied by the submission of any reasonable explanation.

The bill also specifies that the chairperson of the Council must be selected by, and from among, the members of the Council, except that the chairperson may not be the representative from the lead agency. The committee includes the restriction concerning the selection of the chairperson in order to avoid any appearance that the Council is a mere "rubber stamp" of the lead agency.

The bill specifies that the Council must be composed of the following category of members. At least 20 percent of the members must be parents of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member must be a parent of an infant or toddler with a disabilitiy or a child with a disability aged 6 years or younger.

At least 20 percent of the members must be public or private providers of early intervention services. Providers of early intervention services include providers of generic day care services where early intervention services are provided.

At least one member must be from the State legislature. At least one member must be involved in personnel preparation.

In addition, the Council must include at least one member representing each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families, and at least one member representing the State educational agency responsible for preschool services to children with disabilities. Each agency representative must have sufficient authority to engage in policy planning and implementation on behalf of the agency.

Finally, the Council may include other members selected by the Governor. The committee encourages Governors to consider including a representative from the agency responsible for the governance of insurance, the director of the parent training center (if one exists), representatives from local educational agencies, pediatricians or other physicians knowledgeable about the needs of infants and toddlers with disabilities, persons knowledgeable about the needs of Indian children, and persons knowledgeable about the needs of children who are "at risk".

The bill also clarifies that the responsibilities of, and allowable expenditures by, the Council include: conducting hearings and forums, reimbursement of members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), and paying compensation to a member of the Council if such member is not employed or must forefeit wages from other employment when performing official Council business.

The functions of the Council are expanded to include planning, advising, and assisting the State educational agency regarding the transition of toddlers with disabilities to services provided under part B to the extent such services are appropriate. Further, the Council may advise and assist the lead agency under part H and the State educaional agency under part B regarding the provision of appropriate services for children aged birth to 5, inclusive.

ALLOCATION OF FUNDS

Section 16 of the bill amends the provision in section 684(c) to ensure that each State receives at least $500,000. This provision goes into effect for FY1991 funds.

AUTHORIZATION OF APPROPRIATIONS

Section 17 of the bill extends the program for three years and includes an authorization of $220 million for FY1992 and such sums as may be necessary for the remaining two years. The three-year reauthorization will put part H on the same track as the discretionary programs under IDEA.

FEDERAL INTERAGENCY COORDINATING COUNCIL

Section 18 of the bill establishes a Federal Interagency Coordinating Council and specifies the composition and major functions that the Council must perform. The committee believes that this Council, which currently exists, performs important functions and should serve as a model for States with respect to the coordination of policies, the development of technical assistance initiatives, and the performance of other functions necessary to achieve the objectives of part H and of section 619 of part B.

STUDY OF THE FUNDING FORMULA

Section 19 of the bill directs the Secretary to undertake a study to identify alternative formulae for allocating funds under part H of IDEA. The study must include an analysis of: the current formula, which uses census data; a formula that uses child count procedures comparable to procedures used in part B of IDEA; a formula

that uses estimates of children that States anticipate will be served each year with adjustments made in the subsequent year for over and under-counting of children actually served; the effect of including or excluding children "at risk" in a formula using child count procedures; and formulae that use other alternatives or a combination of alternatives.

If the Secretary decides to contract out the study, the committee expects, consistent with current policy, that the Department will not let the contract to any entity that has a conflict of interest.

The Secretary must transmit the study and a report on the study to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor by March 1, 1993.

The committee wishes to note that it is strongly inclined to move to a formula, based on a count of children served, that is comparable to the formula used for allocating funds under part B when the Congress reconsiders this program in three years. The report will provide necessary data for the committee to make an informed decision.

SECTION 6 SCHOOLS AND DEPARTMENT OF DEFENSE OVERSEAS SCHOOLS

Section 20 of the bill clarifies the responsibilities of "section 6" schools to provide education to children with disabilities comparable to that available to children under parts B and H of IDEA. The bill amends section 6 of P.L. 81-874 by explaining that, for purposes of providing comparable education, all substantive rights, protections, and procedural safeguards, available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act, shall be applicable by academic year 1992-93. In addition, the Secretary is also required to extend early intervention services, comparable to those provided by the State in which the section 6 school is located, to infants and toddlers with disabilities under part H of such Act by academic year 1992-93. With respect to part H, it is the committee's intent that the Department of Defense, as the agent charged with operating the section 6 schools, retain flexibility to determine which entity will serve as the lead agency and which entities will provide the early intervention services.

In addition, all due process procedures available under part B of such Act shall be applicable to students in section 6 schools on the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991. Of course, consistent with the previous paragraph, for children with disabilities aged 3 to 5, inclusive, the due process procedures available under part B shall be applicable in academic year 1992-93 and not as of the date of enactment.

Section 21 of the bill also clarifies the obligations of Department of Defense Overseas Schools pursuant to the Defense Dependents Education Act of 1978 to provide early intervention services to infants and toddlers with disabilities and their families and to children with disabilities aged 3 to 5, inclusive.

Children with disabilities aged 3 to 5, inclusive, must receive a free appropriate public education by academic year 1993-94.

Infants and toddlers with disabilities and their families must be provided early intervention services comparable to those provided

under part H in accordance with timelines specified in this bill. It is the committee's intent that the Department of Defense retain flexibility to determine which entity will serve as the lead agency and which entities will provide the early intervention services.

V. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 14, 1991.

Hon. Edward M. Kennedy,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1106, the Individuals with Disabilities Education Act Amendments of 1991, as ordered reported by the Senate Committee on Labor and Human Resources on May 22, 1991.

If you wish further details on this cost estimate, we will be pleased to provide them.

Sincerely,

Robert F. Hale
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1106.
2. Bill title: Individuals with Disabilities Education Act Amendments of 1991.
3. Bill status: As order reported by the Senate Committee on Labor and Human Resources on May 22, 1991.
4. Bill purpose: This bill amends the Individuals with Disabilities Education Act and technically amends several other acts.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Department of Education (Function 500)					
Grants for parents:					
Authorization	3	3	3		
Estimated outlays	(1)	2	3	3	1
Grants for infants and toddlers:					
Estimated Authorization	220	228	237		
Estimated outlays	26	177	223	207	43
Department of Defense (Function 050)					
Children with disabilities:					
Estimated Authorization	10	2	11	11	12
Estimated outlays	8	3	9	11	11
Infants and toddlers:					
Estimated Authorization		(1)	6	16	19
Estimated outlays		(1)	5	14	18
Bill Total:					
Estimated Authorization	233	233	257	27	31
Estimated outlays	34	182	240	235	73

[1]Less than $500,000

The estimates of amounts authorized for appropriation in the bill are discussed below. Estimated outlays assume full appropriation in each fiscal year of authorized amounts shown in the table and reflect the current spending patterns of existing, similar programs.

Department of Education

Grants for parents.—S. 1106 authorizes appropriations of $15.1 million in 1992, $16.3 million in 1993, and $17.6 million in 1994 for grants to parents of children and infants. These grants are to be made to private nonprofit organizations to be used to train parents to meet the special needs of their disabled infants and children. The authorization levels in the table, however, reflect the amount the bill would increase the current authorization for each of those years.

Grants for infants and toddlers.—This bill also reauthorizes Part H, grants for infants and toddlers and their families, of the Individuals with Disabilities Education Act. The bill authorizes appropriations of $220 million in 1992 and such sums as necessary in 1993 and 1994 for this program. The estimated authorization levels for 1993 and 1994 represent the amount specified for 1992 adjusted for anticipated inflation.

Department of Defense

Children with disabilities.—Section 21 of S. 1106 expands the benefits of part B of the Individuals with Disabilities Education Act and requires Department of Defense Schools to provide disabled children, aged 3 to 5, with a free public education by academic year 1993–1994. It also makes the Department of Defense responsible for providing early intervention services to infants and toddlers and their families as described in section 677 of the Act, including all eligible dependents overseas, through procedural safeguards outlined in part H of the act by academic year 1995–1996.

The Department of Defense Dependent Schools (DoDDS) currently serve 390 dependents of military personnel stationed outside of the United States who have disabilities and are age 3 to 5. The Department of Defense also serves 208 such dependents of military personnel in the U.S. through its Section 6 School system. To implement S. 1106, the Defense Department will need to expand its educational services to include an additional 710 children overseas and 242 children in the U.S., based on the incidence of disabilities in its current kindergarten populations.

The average annual cost per participant in these programs is $11,800 in DoDDS and $7,600 in Section 6 Schools. Special education costs include regular and specialist staff costs, materials and transportation. The bill would require implementation by academic year 1993–1994. Academic year 1993–1994 begins in August 1993. The estimate for fiscal year 1993 contains two months of recurring costs and subsequent years contain such costs for entire school years. This estimate assumes that classroom construction and reconfiguration will take place within fiscal year 1992. It is estimated that a new classroom can be constructed at a cost of $233,600, and that a classroom can be reconfigured at a cost of $51,900. To house an average number of 11 children per classroom, DoDDS will need 65 additional classrooms. DoDDS expects that half of the class-

rooms will be constructed, and half reconfigured. Section 6 Schools plan to build 20 additional relocatable or modular classrooms, one at each of the 18 military installations that have schools plus one at two of the larger bases. These classrooms can be built at a cost of $41,500 each.

Infants and Toddlers with Disabilities.—The Department of Defense does not now provide services to infants and toddlers and their families. S. 1106 would require the Department of Defense to provide services to approximately 2,640 infants and toddlers stateside and 600 overseas, all dependents of military personnel. This is based on a 4 percent incidence of disabilities, an average of state incidence rates, applied to the current population of Defense Department dependents who are 2 years old or less and fall within those military installations with Section 6 Schools and those overseas.

This estimate assumes that the expanded benefits to infants and toddlers will not require facility construction or reconfiguration. In practice, implementation of program for infants and toddlers will be through medical services rather than through Defense Department schools. An annual average cost per child of $5,200 reflects the provision of medical as well as educational care to children and falls within a range of state annual average costs. It does not reflect costs for planning that may be incurred before service provision begins. Currently, states are phasing the existing law into practice over five years. Military installations in the U.S. will implement S. 1106 according to their states' policies, and states have progressed at different rates. Close to 30 percent of the installations are in states that expect to begin services by academic year 1993–1994. For these, CBO's estimate for fiscal year 1993 includes two months of recurring costs to reflect that the academic year begins in August; subsequent fiscal years include such costs for entire school years. The remainder of the installations are in states that expect to require service provision in academic year 1994–1995. For these, the estimate for fiscal year 1994 includes two months of recurring costs while subsequent fiscal years include such costs for entire school years. This estimate assumes that overseas service provision will not begin until academic year 1995–1996, after the Defense Department has tested programs in the U.S. Again, fiscal year 1995 includes two months of recurring costs for this population while the subsequent fiscal year includes this cost for the entire school year.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Because this bill would not affect direct spending or receipts, there are no pay-as-you-go implications.

7. Estimated cost to State and local governments: States are still in the process of locating disabled infants and toddlers eligible for grants under Part H. At this time the total cost of serving all eligible infants and toddlers cannot be estimated. The federal funds made available under this program would supplant the funds of states and local eductional agencies.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Diane Celuch and Mary Helen Petrus.
11. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

VI. Regulatory Impact Statement

The committee has determined that there will be minimal increase in the regulatory burden imposed by this bill.

VII. Section-by-Section Analysis

Section 1. This section provides that the short title of the bill is the "Individuals with Disabilities Education Act Amendments of 1991".

Section 2. This section amends the definition of "children with disabilities" in section 602(a)(1) of the Act to provide discretion to the States to include children, aged 3–5, who are experiencing development delays in the areas of physical, cognitive, communication, social/emotional, or adaptive development and who are in need of special education.

Section 3. This section amends section 613 of the Act to require States to create policies and procedures to assure a smooth transition from part H to part B for eligible children.

Section 4. This section amends section 614 of the Act to permit local educational agencies and intermediate educational units to use Individualized Family Service Plans as described in part H, instead of Individualized Education Plans, consistent with State policy and with the concurrence of the family.

Section 5. This section amends section 619 of the Act (Preschool Incentive Grants) to allow part B funds to be used for children, who will reach their third birthday during the school year, whether or not they were already receiving services under part H. However, it clarifies that this does not extend part H eligibility for services to children already receiving a free appropriate public education under part B. This section also raises the funding ceiling per child to $1500.

Section 6. This section amends section 623 of the Act (Early Education Demonstration Program) to authorize the use of funds for programs which focus on children from birth to age 2, inclusive, who are "at risk" of having substantial developmental delay if early intervention services are not provided. This section also authorizes the use of these funds to facilitate and improve outreach to low-income, minority, rural and other underserved populations, and to support statewide projects to change the delivery of early intervention and special education and related services from segregated to integrated environments.

Section 7. This section increases the authorization level for parent training centers to meet the expanded program needs.

Section 8. This section updates terminology used in part H (Early Intervention Services for Infants and Toddlers) to currently accepted standards. This section also clarifies "early intervention services" to include vision, assistive devices and technology, and necessary transportation services. Furthermore, this section includes family therapists, orientation and mobility specialists, and pediatricians and other physicians under the definition of qualified person-

nel. Finally, this section places in statute the policy in current regulations that, to the maximum extent appropriate, infants and toddlers receive early intervention services in natural environments, including the home and non-segregated day care centers.

Section 9. This section creates a mechanism for continued participation in part H, by States facing fiscal problems.

Section 10. This section amends section 676 of the Act to include training of paraprofessionals, and clarifies that the State comprehensive system of personnel development must be consistent with the part B system. The general administrative and supervisory roles of the lead agency with respect to programs and activities receiving assistance are clarified, as are the State's financial assignment responsibilities consistent with amendments to section 678 of the Act in section 12 below.

Section 11. This section amends section 677 of the Act in several ways. A statement of the natural environments in which services are provided is required. Changes are also made to emphasize the central role of the parents in designing and implementing services. The phrase "strengthens and needs" (of families) is replaced with "resources, priorities, and concerns" in accordance with the recommendations of parents. Furthermore, a new subsection (e) is added regarding parental consent. Finally, this section removes the requirement that the service coordinator be a person from "the professional most immediately relevant to the infant's, toddler's or parents' needs." This allows other qualified persons to function in this role.

Section 12. This section adds a new requirement under the State part H application process under section 678 of the Act, by requiring a description of the policies and procedures used to ensure a smooth transition between part H and part B. A description of the process by which the lead agency notifies local educational agencies and intermediate educational units of a child's eligibility at least 90 days before part B services must begin, is also required, as are further assurances under section 678(b) of the Act regarding policies and procedures adopted to ensure involvement of underserved groups and access to culturally competent services. This section of this bill, also amends section 678 of the Act to authorize and clarify that the State assigns fiscal responsibilities for part H to the several agencies. The State lead agency is then charged with assuring compliance by all State agencies with their appropriate fiscal responsibilities under part H.

Section 13. This section amends section 679 of the Act to allow part H funds to be used to provide a free appropriate public education to children with disabilities from their third birthday to the beginning of the following school year.

Section 14. This section amends section 680 of the Act to clarify parental rights, including the right to decline any single or group of services without jeopardizing their access to other services.

Section 15. This section modifies the number of members and composition of the State Interagency Coordinating Council under section 682 of the Act, selection of the chairperson, and the functions of and allowable expenditures by the council.

Section 16. This section ensures that each State receives at least $500,000 under section 684(c) of the Act.

Section 17. This section extends the program for 3 years to put this part on the same time track as the discretionary programs under IDEA. This section also authorizes $220 million for FY1992 and "such sums" thereafter.

Section 18. This is a new section which places in statute, the current Department of Education policy of utilizing an interagency coordinating council similar to those required at the State level. The composition and major functions and responsibilities of the council are specified.

Section 19. This section is a new section which requires the Secretary to carry out a study of alternative funding formulae for allocating funds under part H of IDEA. The study is to be completed in time for the next reauthorization cycle.

Section 20. This section amends section 6 of Public Law 81-874 (20 U.S.C. 241(a)) (Impact Aid) to assure the availability of early intervention services for infants and toddlers with disabilities and of a free appropriate public education for preschool children with disabilities comparable to those available under parts B and H of the Act for military dependents.

Section 21. This section amends section 1409 of the Defense Dependents Education Act of 1978 (20 U.S.C. 927) to assure the availability of early intervention services for infants and toddlers with disabilities and of a free appropriate public education for preschool children with disabilities comparable to those available under parts B and H of the Act for military dependents.

Section 22. This section makes various technical amendments to the Act.

Section 23. This section provides for an effective date for the amendments made by the bill.

VIII. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Individuals with Disabilities Education Act

* * * * * * *

Sec. 602. (a) As used in this title—

(1)*(A)* The term "children with disabilities" means children—

[(A)**]** *(i)* with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

[(B)**]** *(ii)* who, by reason thereof, need special education and related services.

(B) The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, need special education and related services.

* * * * * * *

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation [and social work services, and medical and counseling services, including rehabilitation counseling,], *social work services, counseling services, including rehabilitation counseling, and medical services,* except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

* * * * * * *

(22) The term "native language" has the meaning given that term by [section 703(a)(2)] *section 7003(a)(2)* of the Bilingual Education Act.

* * * * * * *

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) * * *

* * * * * * *

(b) If, within twenty years after the completing of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title, the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

* * * * * * *

PART B—ASSISTANCE FOR EDUCATION OF ALL [HANDICAPPED CHILDREN] *CHILDREN WITH DISABILITIES*

SETTLEMENTS AND ALLOCATIONS

SEC. 611. (a)(1) Except as provided in [paragraph (3)] *paragraph (5)* and in section 619, the maximum amount of the grant to whcih a State is entitled under this part for any fiscal year shall be equal to—

* * * * * * *

(f)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of children with disabilities on reservations (A) served by elementary and secondary [schools operated for Indian children] *schools for Indian children operated or supported* by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year, and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989.

ELIGIBILITY

SEC. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) * * *

* * * * * * *

(3) The State has established priorities for providing a free appropriate public education to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, [first with respect to children] *first with respect to children with disabilities* with disabilities who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

* * * * * * *

STATE PLANS

SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Secretary, through its State educational agency, a State plan a such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

(1) * * *

* * * * * * *

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including sub-

part 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [and section 202(1) of the Carl D. Perkins Vocational Education Act], under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

* * * * * * *

(9) provide satisfactory assurance that Federal funds made available under this part—

(A) will not be commingled with State funds, and

(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to [handicapped children] *children with disabilities* under this part and in no case to supplant such Federal, State and local funds, except that, where the State provides clear and convincing evidence that all [handicapped children] *children with disabilities* have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

* * * * * * *

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

(A) * * *

* * * * * * *

(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement; [and]

(14) * * *

(A) * * *

* * * * * * *

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State[ ]; *and*

(15) set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a

method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday.

* * * * * * *

APPLICATION

SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) * * *

(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability *(or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 677(d) for each child with a disability aged 3 to 5, inclusive)* at the beginning of each school year and will then review and, if appropriate, revise, its provisions periodically, but not less than annually;

* * * * * * *

ADMINISTRATION

SEC. 617. (a)(1) * * *

* * * * * * *

(b) In carrying out the provisions of this part, the Secretary [(and the Secretary, in carrying out the provisions of subsection (c))] shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

* * * * * * *

PRE-SCHOOL GRANTS

SEC. 619. (a)(1) * * *

* * * * * * *

(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

(A) * * *

* * * * * * *

(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the state law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, *and for any two-year-old children pro-*

vided services by the State under subsection (c)(2)(B)(ii) or by a local education agency or intermediate educational unit under subsection (f)(2)

* * * * * * *

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed [$1,000] *$1,500* for each child with a disability in such State aged three to five, inclusive.

* * * * * * *

(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

(A) * * *

* * * * * * *

(2) * * *

* * * * * * *

(B) use not more than 20 percent of such grant—

(i) for planning and development of a comprehensive delivery system;

(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive; and

(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H, and

* * * * * * *

[(f) Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, amounts appropriated under this section for fiscal years 1987 and 1988 and received by a State whose allotment for the succeeding fiscal year is adjusted downwards under subsection (a)(2)(E) shall remain available for obligation by such State, and by local educational agencies and intermediate educational units in such State, during the 2 fiscal years succeeding the fiscal year for which such amounts were appropriated.]

(f) Each local educational agency or intermediate educational unit receiving funds under this section—

(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive; and

(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

(g) Part H of this Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part, with funds received under this section.

* * * * * * *

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

SEC. 622. (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under part H to—

* * * * * * *

EARLY EDUCATION FOR CHILDREN WITH DISABILITIES

SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, *including individuals who are at risk of having substantial developmental delays if early intervention services are not provided,* which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other [communication made and] *communication mode,* language development, and self-help skills of such children.

* * * * * * *

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, [and]

(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H;

(J) support statewide projects in conjunction with a State's plan under part H and a State's application under part B, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments; and

[(I)] *(K)* increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

* * * * * * *

PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES

SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—

(1) research to identify and meet the full range of special education, related services, and early intervention needs[, including transportation to and from school of such children and

youth with disabilities,] *of such children and youth with disabilities, including their need for transportation to and from school,*

* * * * * * *

[SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH] *SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES*

* * * * * * *

SEC. 626. (a) * * *

* * * * * * *

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

GRANTS FOR PERSONNEL TRAINING

SEC. 631. (a)(1) * * *

* * * * * * *

(A) * * *

* * * * * * *

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for [handicapped children] *children with disabilities.*

* * * * * * *

(c)(1) * * *

* * * * * * *

[(D) participate in educational decisionmaking processes including the development of a handicapped child's individualized education program,]

(D) participate in educational decisionmaking processes including the development of the individualized education program,

* * * * * * *

REPORTS TO THE SECRETARY

SEC. 634. (a)(1) * * *

* * * * * * *

(1) * * *

* * * * * * *

(3) information described in [section 631(c)(9)] *section 631(c)(10)* and section 633(f)(1), as applicable.

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 635. (a)(1) * * *

* * * * * * *

(3) There are authorized to be appropriated to carry out section 1431(c) of this title $11,000,000 for fiscal year 1991, [$12,100,000] *$15,100,000* for fiscal year 1992 [$13,300,000] *$16,300,000* for fiscal year 1993, and [$14,600,000] *$17,600,000* for fiscal year 1994.

* * * * * * *

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR [HANDICAPPED CHILDREN] *CHILDREN WITH DISABILITIES*

SEC. 642. * * *

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PART G—TECHNOLOGY, EDUCATIONAL MEDIA AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

FINANCIAL ASSISTANCE

SEC. 661. (a) * * *

* * * * * * *

(1) * * *

* * * * * * *

(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of [Public Law 100-407] *the Technology-Related Assistance for Individuals with Disabilities Act of 1988.*

* * * * * * *

PART H—INFANTS AND TODDLERS WITH DISABILITIES

FINDINGS AND POLICY

SEC. 671. (a) * * *

* * * * * * *

(b) * * *

* * * * * * *

(1) * * *

* * * * * * *

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being [provided to handicapped infants, toddlers, and their families] *provided to infants and toddlers with disabilities and their families.*

SEC. 672. DEFINITIONS.—

As used in this subchapter—

(1) The term "infants and toddlers with disabilities" means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development *(hereinafter in this part referred to as "communication development")*, psychosocial development *(hereafter in this part referred to as "social or emotional development")*, or self-help skills *(hereafter in this part referred to "adaptive development")*, or

* * * * * * *

(2) The term "early intervention services" are developmental services which—

* * * * * * *

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

(i) * * *

* * * * * * *

(iii) [language and speech] *communication* development,

(iv) [psychosocial] *social or emotional* development, or

(v) [self-help skills] *adaptive development*,

* * * * * * *

(E) include—

(i) * * *

* * * * * * *

(vii) case management services *(hereafter in this part referred to as "service coordination services")*,

* * * * * * *

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services, [and]

* * * * * * *

(xii) vision services,

(xiii) assistive technology devices and assistive technology services, and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services,

(F) are provided by qualified personnel, including—

(i) * * *

* * * * * * *

(vii) nurses, [and]

(viii) nutritionists, [and]

(ix) family therapists,
(x) orientation and mobility specialists, and
(xi) pediatricians and other physicians,

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and

[(G)**]** *(H)* are provided in conformity with an individualized family service plan adopted in accordance with section 1477 of this title.

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SEC. 675. CONTINUING ELIGIBILITY.—

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(d) EXCEPTION.—

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(e) DIFFERENTIAL FUNDING FOR FOURTH OR FIFTH YEAR.—

(1) IN GENERAL.—Notwithstanding any other provision of this part, a State shall be eligible for a grant under section 673 for fiscal years 1990, 1991, or 1992 if—

(A) the State satisfies the eligibility criteria described in subsection (b)(1) pertaining to the State's third or fourth year of participation under this part; and

(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) for the fourth, fifth, or succeeding years of participation.

(2) APPROVAL OF REQUEST.—

(A) The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

(B) The Secretary shall approve a State's request for a second year of extended participation under this subsection if the State—

(i) meets the requirements of paragraph (1); and

(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

(3) DURATION.—The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

(4) PAYMENT.—

(A) FISCAL YEAR 1990.—Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this part in an amount equal to such State's payment under this part for fiscal year 1989.

(B) FISCAL YEAR 1991 OR 1992.—Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment for such fiscal years in an amount equal to the payment such State would have received under this part for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1).

(C) MINIMUM.—Beginning in fiscal year 1991, the payment under this part to each of the 50 States, the District of Columbia, and Puerto Rico shall not be less than $500,000.

(5) REALLOTMENT.—

(A) FISCAL YEAR 1990.—The amount by which the allotment computed under section 684 for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 684(d), any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections 684 (a) and (b), among those States satisfying the eligibility criteria of subsection (b)(1) for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

(B) FISCAL YEAR 1991 OR 1992.—The amount by which a State's allotment computed under section 684 for any State for fiscal years 1991 or 1992 exceeds the amount that such State may be alloted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 684 (a) and (b)—

(i) first, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 684 for the previous fiscal year;

(ii) second, if funds remain, among those States that have—

(I) satisfied the eligibility criteria of subsection (b)(1) for the fourth year of participation;

(II) qualified for extended participation under this subsection; and

(III) not received a reallotment payment under clause (i),

in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 684 for such year; and

(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

(6) DEFINITIONS.—For the purpose of this subsection, the term "State" means—

(A) each of the 50 States, the District of Columbia, and Puerto Rico;

(B) each of the jurisdictions listed in section 684(a); and

(C) the Department of the Interior.

SEC. 676. REQUIREMENT FOR STATEWIDE SYSTEM.—

(a) IN GENERAL.—

* * * * * * *

(b) MINIMUM COMPONENTS.—

The statewide system required by subsection (a) of this section shall include, at a minimum—

(1) * * *

* * * * * * *

(4) for each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 1477 of this title, including [case management] *service coordination* services in accordance with such service plan,

* * * * * * *

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services [as required under this paragraph] to parents of infants with disabilities,

* * * * * * *

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that is consistent with the comprehensive system of personal development described in section 613(a)(3),

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

[(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,]

(A) the general administration and supervision of programs and activities receiving assistance under section 673, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 673, to ensure that the State complies with this part.

* * * * * * *

(C) the assignment of financial responsibility *in accordance with section 678(a)(2)* to the appropriate [agency] *agencies*,

* * * * * * *

INDIVIDUALIZED FAMILY SERVICE PLAN

SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each infant or toddler with a disability and the infant's or toddler's family shall receive—

[(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and]

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family directed assessment of the resources, priorities, and concerns of the family and the identification of the support and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability; and

[(2)] *(3)* a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

* * * * * * *

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, [language and speech] *communication* development, [psychosocial] *social or emotional* development, and [self-help skills] *adaptive development* based on acceptable objective criteria,

(2) a statement of the family's [strengths and needs] *resources, priorities, and concerns* relating to enhancing the development of the family's infant or toddler with a disability,

* * * * * * *

(5) a statement of the natural environments in which early intervention services shall appropriately be provided,

[(5)] *(6)* the projected dates for initiation of services and the anticipated duration of such services,

[(6)] *(7)* the name of the case manager *(hereafter in this part referred to as the "service coordinator")* from the profession most immediately relevant to the infant's or toddler's or family's needs *(or who is otherwise qualified to carry out all applicable responsibilities under this part)* who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

[(7)] *(8)* the steps to be taken supporting the transition of the toddler with a disability to services provided under part B of this Act to the extent such services are considered appropriate.

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early invervention service, then the early intervention services to which such consent is obtained shall be provided.

STATE APPLICATION AND ASSURANCES

SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673.

(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,

[(2)] *(3)* information demonstrating eligibility of the State under section 674,

[(3)] *(4)* the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675,

[(4)] *(5)* (A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

[(5)] *(6)* a description of the uses for which funds will be expended in accordance with this part and, for the fifth and succeeding fiscal years, a description of the services to be provided,

[(6)] *(7)* a description of the procedures used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, [and]

(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in pre-school programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides at least 90 days before such child is eligible for the preschool program under part B in accordance with State law, and

[(7)] *(9)* such other information and assurances as the Secretary may reasonably require by regulation.

(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) * * *

* * * * * * *

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, [and]

(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of this part and to ensure that such families have access to culturally competent services within their local areas, and

[(7)] *(8)* such other information and assurances as the Secretary may reasonably require by regulation.

* * * * * * *

USES OF FUNDS

SEC. 679. In addition to using funds provided under section 673 to plan. develop, and implement the statewide system required by section 676, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources, [and]

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available[.], *and*

(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year.

PROCEDURAL SAFEGUARDS

SEC. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

(1) * * *

* * * * * * * *

(2) The right to confidentiality of personally identifiable information.

(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

[(3)**]** *(4)* The opportunity for parents or a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

[(4)**]** *(5)* Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

[(5)**]** *(6)* Written prior notice ot the parents or guardian of the infant or toddler with a disability whenever the State ageny or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

[(6)**]** *(7)* Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

[(7)**]** *(8)* During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

* * * * * * * *

STATE INTERAGENCY COORDINATING COUNCIL

SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of **[**15 members**]** *at least 15 members but not more than 25 members, unless the state*

provides sufficient justification for a greater number of members in the application submitted pursuant to section 678.

(2) The Council [and the chairperson of the Council] shall be appointed by the Governor. *The chairperson of the Council shall be selected by and from among the members of the Council, except that the chairperson shall not be the representative from the lead agency.* In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

[(b) COMPOSITION.—The Council shall be composed of—

[(1) at least 3 parent of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive.

[(2) at lease 3 public or private providers of early intervention services.

[(3) at least one representative form the State legislature.

[(4) at least one person involved in personnel preparation.

[(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families, and

[(6) others selected by the Governor.]

(b) COMPOSITION.—(1) The Council shall be composed as follows:

(A) At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) At least 20 percent of the members shall be public or private providers of early intervention services.

(C) At least one member shall be from the State legislature.

(D) At least one member shall be involved in personnel preparation.

(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(2) The Council may include other members selected by the Governor, including a representative from the agency responsible for the State governance of insurance.

* * * * * * *

(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part *to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must for-*

feit wages from other employment when performing official Council business, to hire staff, and *to* obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

(e) FUNCTIONS OF COUNCIL—[The] *(1) The* Council shall—

[(1)] *(A)* advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements.

[(2)] *(B)* advise and assist the lead agency in the preparation of applications and amendments thereto, [and]

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under part B, to the extent such services are appropriate, and

[(3)] *(D)* prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for [infants or toddlers] *infants and toddlers* with disabilities and their family operated within the State.

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.

* * * * * * *

ALLOCATION OF FUNDS

SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, [the Republic of the Marshall Islands, the Federated States of Micronesia,] the Republic of Palau, *(until the compact of Free Association with Palau is ratified)* and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

* * * * * * *

(c)(1) For each of the fiscal years 1987 through [1991] *1994* from the funds remaining after the reservation and payments under subsection (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder *or $500,000, whichever is greater before the period at the end thereof.*

SEC. 685. FEDERAL INTERAGENCY COORDINATING COUNCIL.

(a) ESTABLISHMENT AND PURPOSE.—

(1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State and local agencies;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in agency programs and services; and

(E) identify barriers to Federal interagency cooperation and program operation.

(2) APPOINTMENTS.—The Council and the Chairperson shall be appointed by the Secretary. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

(b) COMPOSITION.—The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act;

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the Special Supplemental Food Program for Women, Infants and Children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Alcohol, Drug Abuse and Mental Health Administration;

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants, toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this part;

(2) conduct policy analyses of all Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) develop and recommend strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) provide technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

AUTHORIZATION OF APPROPRIATIONS

SEC. [685.] *686.* [There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.] *There are authorized to be appropriated to carry out this part $220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.*

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PUBLIC LAW 81-874

IMPACT AID

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SEC. 241. EDUCATION OF CHILDREN WHERE LOCAL AGENCIES CANNOT SUPPLY FACILITIES.—

(a) NECESSARY ARRANGEMENTS BY SECRETARY; STANDARD OF EDUCATION.—

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the Secretary shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Secretary, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For purposes of providing such comparable education, all substantive rights, protections and procedural safeguards, available to children with disabilities age 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act and to infants and toddlers under part H of such Act shall be applicable to such comparable education by academic year 1992–1993, and all due process procedures available under part B of such Act shall be applicable to such comparable education on the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules and the following: (1) chapter 51 and subchapter III of chapter 53 of Title 5; (2) subchapter I of chapter 63 of Title 5; (3) sections 5504, 5541 to 5549, and 6101 of Title 5; (4) sections 1302(b), (c), 2108, 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351, 3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of Title 5; and (5) chapter 43 of Title 5. Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Secretary and the Secretary of the military depart-

ment concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

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DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

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SEC. 927. ALLOTMENT FORMULA.—

(a) ESTABLISHMENT BY REGULATION OF MINIMUM ALLOTMENT FORMULA; CRITERIA.—

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(c) APPLICABILITY OF PROVISIONS RESPECTING EDUCATION OF HANDICAPPED CHILDREN TO PROGRAM OPERATION.—

[The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this chapter.]

(1) CHILDREN WITH DISABILITIES.—Notwithstanding the provisions of secton 1402(b)(3), the provisions of part B of the Individuals with Disabilities Education Act shall apply to all schools operated by the Department of Defense under this title, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education by academic year 1993–1994.

(2) INFANTS AND TODDLERS WITH DISABILITIES.—The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 677 of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part H of such Act shall apply with respect to all schools operated by the Department of Defense under this Act.

(3) IMPLEMENTATION TIMELINES.—In carrying out the provisions of paragraph (2), the Director shall—

(A) in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals;

(B) in academic year 1994–1995, implement the program described in subparagraph (A), except the Director need only conduct multidisciplinary assessments, develop individualized family service plans and make available case management services; and

(C) in academic year 1995–1996 and succeeding academic years, have in effect the program described in subparagraph (A).

HEAD START ACT

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ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

SEC. 640. (a)(1) * * *

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(d) The Secretary shall establish policies and procedures designed to assure that for fiscal year 1982 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for handicapped children (as defined in [paragraph (1) of section 602 of the Education of the Handicapped Act] *section 602(a)(1) of the Individuals with Disabilities Education Act*) and that services shall be provided to meet their special needs. The Secretary shall report to the Congress at least annually on the status of handicapped children in Head Start programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

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HEAD START TRANSITION PROJECT ACT

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SEC. 136. APPLICATION.

(a) * * *

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(4) * * *

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(C) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this subtitle, in cooperation with parental involvement efforts undertaken pursuant to the Follow Through Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), and the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* of 1975;

* * * * * * *

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), [Education of the Handicapped Act] *Individuals with Disabilities Education Act* of 1975, and comparable early childhood development programs to elementary schools;

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COMPREHENSIVE CHILD DEVELOPMENT ACT

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DEFINITIONS

SEC. 670S. As used in this subchapter—

(1) the term "early intervention services" has the same meaning given that term by section 672(2) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* (20 U.S.C. 1472(2));

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DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

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STATE PLANS

SEC. 122. (a) * * *

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(C) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*.

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FOLLOW THROUGH ACT

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SEC. 663. CONSIDERATION OF APPLICATIONS.—

(a) IN GENERAL.—A grant under this part may be made only to an applicant that submits an application to the Secretary containing such information as may be required by the Secretary by rule.

(b) CONTENTS OF APPLICATION.—

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(9) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C.A. § 2701 et seq.], the Bilingual Education Act [20 U.S.C.A. § 3281 et seq.], and the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* of 1975 [20 U.S.C.A. § 1400 et seq.];

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REHABILITATION ACT OF 1973

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STATE PLANS

SEC. 101. (a) * * *

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(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State

agencies administering the State's public assistance programs, other programs for individuals with handicaps, veterans programs, community mental health programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health and Human Services, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of individuals with handicaps (specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and the Carl D. Perkins Vocational Education Act);

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TRAINING

SEC. 304. (a) * * *

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(d) * * *

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(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under the section only through funds appropriated under the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*; and

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SPECIAL DEMONSTRATION PROGRAMS

SEC. 311. (a) * * *

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(c)(1) * * *

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(3) The Commissioner shall assure that projects shall be coordinated with other projects assisted under section 626 of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*.

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STATE PLAN

SEC. 634. (a)(1) * * *

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(b) * * *

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(2)(A) specify results of the needs assessment conducted as required by title I of this Act of individuals with severe handi-

caps as such assessment identifies the need for supported employment services, including the coordination and use of the information within the State relating to section 618(b)(3) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*; and

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(D) such services will be coordinated with the evaluation results, the individual written rehabilitation plan or education plan as required under section 102 of this Act, section 123 of the Developmental Disabilities Act of 1984, and sections 612(4) and 614(a)(5) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, respectively;

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STATE PLANS

SEC. 705. (a) * * *

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(4) provide assurances that (A) an individual written rehabilitation program meeting the requirements of section 102 will be developed for each individual with handicaps eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program will be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, the Developmental Disabilities Assistance and Bill of Rights Act, and sections 612(4) and 614(a)(5) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, respectively;

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TRIBALLY CONTROLLED SCHOOLS ACT OF 1988

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SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) * * *

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(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

SEC. 5205. COMPOSITION OF GRANTS.

(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) * * *

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(B) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and

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(B) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and

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(3)(A) * * *

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(ii) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, or

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HIGHER EDUCATION ACT OF 1965

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CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a) * * *

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For the purpose of this paragraph, the term "children with disabilities" has the meaning set forth in [section 602(1) of the Education of the Handicapped Act] *section 602(a)(1) of the Individuals with Disabilities Education Act*.

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SOCIAL SECURITY ACT

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PAYMENT TO STATES

SEC. 1903. (a) * * *

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(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a [handicapped child] *children with disabilities* because such services are included in the child's individualized education program established pursuant to part B of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* or furnished to a [handicapped infant or toddler] *infant or toddler with disabilities* because such services are included in the

child's individualized family service plan adopted pursuant to part H of such Act.

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PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN REQUIREMENTS OF THIS TITLE

SEC. 1915. (a) * * *

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(5) * * *

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(i) special education and related services [(as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), 17 *(as defined in section 602(a)(16) and (17) of the Individuals with Disabilities Education Act)* which otherwise are available to the individual through a local educational agency, and

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49-010 O (64)